

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**CHRISTINE O'KEEFE,
Individually and as Administrator of the
ESTATE OF CYNTHIA FISCHER, deceased,**

Plaintiff,

Civil Action No. 2:22-cv-1178

v.

(The Honorable Judge Arthur J. Schwab)

**RUSTIC RAVINES, LLC, a West Virginia
Limited liability company; PREMIER
POWERSPORTS RENTAL, LLC, a Kentucky
limited liability company,**

Defendants.

JURY TRIAL DEMANDED

**DEFENDANT PREMIER POWERSPORTS RENTAL, LLC'S RENEWED MOTION TO
DISMISS PLAINTIFF'S COMPLAINT**

COMES NOW, Defendant, Premier Powersports Rental, LLC ("Premier"), by and through its undersigned counsel, and pursuant to the Court's January 5, 2023, Memorandum Order (Doc. 26) has conducted discovery, which has failed to establish a basis for jurisdiction and venue for Premier in Pennsylvania, files the following Renewed Motion to Dismiss Plaintiff's Complaint as follows:

Pursuant to Federal Rule of Civil Procedure 12(b)(2), Plaintiff's Complaint should be dismissed for lack of jurisdiction in that Premier is a Kentucky limited liability company, lacks contacts with Pennsylvania, and the events giving rise to the cause of action occurred in West Virginia. Therefore, there is insufficient contacts or basis for general or specific jurisdiction to exist in Pennsylvania and this Court.

Moreover, pursuant to Federal Rule of Civil Procedure 12(b)(3), this Court is not the proper venue for this action with respect to Premier. Plaintiff cannot establish that this Court has personal

jurisdiction over Premier. Plaintiff also has failed to establish any basis for venue in the Western District of Pennsylvania against Premier. Plaintiff has not made any assertions against Premier that any of its acts or omissions took place in Pennsylvania or that it resided here. Further, Plaintiff's assertion that Premier targeted advertisements to southwestern and western Pennsylvania are false and, notwithstanding, insufficient to confer jurisdiction on Premier. Premier is not a resident of Pennsylvania and no substantial portion of the events giving rise to Plaintiff's Complaint occurred at a time when Premier was subject to personal jurisdiction in Pennsylvania. Therefore, venue is improper in the Western District of Pennsylvania.

WHEREFORE, based on the foregoing and the reasons more specifically set forth in the accompanying supplemental brief in support, which is incorporated by reference, Defendant, Premier Powersports Rental, LLC, requests that this Honorable Court dismiss Plaintiff's Complaint.

JURY TRIAL DEMANDED

Respectfully Submitted,

PREMIER POWERSPORTS RENTAL, LLC,

By Counsel,

/s/ Robert James. Esq.

Robert C. James, Esq. (PA# 80393)
FLAHERTY SENSABAUGH BONASSO PLLC
1225 Market Street
P.O. Box 6545
Wheeling, WV 26003
T: (304) 230-6600
F: (304) 230-6610
rjames@flahertylegal.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**CHRISTINE O'KEEFE,
Individually and as Administrator of the
ESTATE OF CYNTHIA FISCHER, deceased,**

Plaintiff

**Civil Action No. 2:22-cv-1178
(The Honorable Judge Arthur J. Schwab)**

v.

**RUSTIC RAVINES, LLC, a West Virginia
Limited liability company; PREMIER
POWERSPORTS RENTAL, LLC, a Kentucky
Limited liability company,**

Defendants.

CERTIFICATE OF SERVICE

I, Robert C. James, Esquire, do hereby certify that on this 10th day of February, 2023, the foregoing **"DEFENDANT PREMIER POWERSPORTS RENTAL, LLC'S RENEWED MOTION TO DISMISS PLAINTIFF'S COMPLAINT"** has been electronically filed using the CM/ECF System, thereby electronically serving the following counsel of record:

Michael P. O'Day, Esquire
221 Commercial Ave., Suite 200
Aspinwall, PA 15215
Counsel for Plaintiff

Damon R. Thomas, Esquire
Michael R. Proctor, Esquire
BOWLES RICE LLP
1800 Main St. Ste 200
Canonsburg, PA 15317

and

J. Mark Adkins, Esq.
BOWLES RICE LLP
600 Quarrier St.
Charleston, WV 25301
Counsel for Defendant, Rustic Ravines, LLC

/s/ Robert James. Esq.
Robert C. James, Esq. (PA # 80393)
FLAHERTY SENSABAUGH BONASSO PLLC